

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

DANIEL G. SMITH

FILE NO. MUP-86-039(V)
APPLICATION NO. 8602552

from a decision of the Director
of the Department of Construction
and Land Use on a master use
permit application

Introduction

Daniel G. Smith, for Marion Douglass, appeals the decision of the Director, Department of Construction and Land Use, to deny a variance for property at 7131 Beach Drive S.W.

The appellant exercised the right to appeal pursuant to the Master Use Permit Ordinance, Chapter 23.76, Seattle Municipal Code.

This matter was heard before the Hearing Examiner on August 13, 1986.

Parties to the proceedings were: Daniel G. Smith, for Marion Douglass, owner, and the Director, Department of Construction and Land Use, by Julia Gibb, land use specialist.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code unless otherwise indicated.

After due consideration of the evidence elicited during the public hearing, the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

Findings of Fact

1. Variances to allow parking in the required front yard and to allow an accessory structure in the required front yard were applied for by Daniel Smith for Marion Douglass for property at 7131 Beach Drive S.W. The Director conditionally granted the variances for a two car garage but denied variance for the workshop/storage structure below the garage. This appeal followed.

2. The subject property is a large SF 5000 zoned lot on the west side of Beach Drive with water frontage. The lot slopes down toward the water with an 8 ft. drop in elevation between the street and the established lot grade.

3. The existing development includes a 22 ft. by 22 ft. carport at the front property line at street grade.

4. The proposed development includes replacing the carport with a two-car garage with storage and workshop underneath and a parking pad north of the garage.

5. The Director's staff has determined that a variance is necessary from the requirements of Section 23.44.14 which establishes the front yard setback.

6. Most properties on the west side of Beach Drive in this area utilize the space under the garage or carport. Of 16 properties, 15 have elevated front yard parking, one is the subject property and only one other does not utilize the space underneath for storage or living area.

7. The enclosed storage area would be below street grade and would not be visible from the street nor from adjacent properties because of vegetation and other structures.

Conclusions

1. A variance may be granted from a requirement of the Land Use Code if all the facts and conditions set forth in Section 23.40.020.C are found to be present.

2. First there must be an unusual property condition because of which the strict application of the code would deprive the property of rights and privileges enjoyed by other properties in the vicinity. The condition which supports variance for a garage in the front yard, the abrupt change in elevation, results in an elevated parking structure with space underneath. If the code is applied to allow use as a parking structure only, the property is denied the use of that space while almost every other property has made use of the space.

3. The requested variance may not go beyond the minimum necessary for relief and may not constitute a grant of special privilege. Variance to allow utilization of only the space under the approved garage would not go beyond the minimum necessary for relief and would be comparable to the use made of similar space on other properties.

4. The variance may not be materially detrimental to the public welfare or injurious to other properties. Since the structure below grade would not be visible to other properties, and none but visual harm was suggested, there appears to be no potential detriment.

5. Strictly applying the code, to deny storage when the parking structure would already be present, would cause the unnecessary hardship of constructing a separate structure and constructing it in an area which is likely to be more visible.

6. Since the other variance criteria are met and the storage would be under a structure otherwise approved and not visible to any other property, the variance to allow it would not conflict with the spirit and purpose of the Land Use Code or Land Use Policies.

Decision

The variance is granted.

Entered this 27th day of August, 1986.

M. Margaret Klockars
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Deputy Hearing Examiner

Concerning Further Review of
Hearing Examiner Final Decisions on Master Use Permits

The decision of the Hearing Examiner in this case is final and is not subject to reconsideration except to correct errors on the ground of fraud, mistake, or irregularity in vital matters. Any party's request for judicial review of the decision must be by application to King County Superior Court for a writ of review within fifteen calendar days of the date of this decision. Seattle Municipal Code Section 23.76.22(C)(12)(c).

If the Superior Court orders a review of the decision the person seeking review must arrange for and bear the cost of preparing a verbatim transcript of the hearing, but will be reimbursed if successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, Seattle, Washington 98104, (206) 625-4197.